IN THE HIGH COURT OF BOMBAY AT GOA
****

WRIT PETITION NO. 166 OF 2003

1. Shri Aldino dos Santos
Braganza, r/o Assagao,
Bardez, Goa, and

2. Ms. Pramila dos Santos
Braganza, r/o Assagao,
Bardez, Goa. ... Petitioners

Versus

1. State of Goa, through its
Chief Secretary, having
offce at Secretariat,
Panaji, Goa,

2. The Dy. Collector & SDO,
Mapusa Sub-Division,
Mapusa, Bardez, Goa,

3. Village Panchayat of
Anjuna-Caisua, Bardez,
Goa, and

4. Smt. Jayashree V. Bicholkar,
r/o Laxmi Beach Bar &
Restaurant, Vagator Beach,
Vagator, Bardez-Goa. ... Respondents.

Shri M. S. Sonak, advocate for the petitioners.

Shri A.N.S. Nadkarni, Advocate General with Shri S. Vahidulla, Additional Government Advocate for respondent nos.1 & 2.

Shri S. D. Lotlikar, Senior Advocate with Shri A. D. Bhobe, advocate for respondent no.4.

CORAM : F. I. REBELLO &
P. V. HARDAS, JJ.

DATE : 16th June, 2003.

ORAL JUDGMENT (Per Rebello, J)

Rule. The respondents waive service. Heard forthwith.

The petitioners have come to this Court to contend

that the land on which the structure of respondent no.4 exists is acquired land. The Award has been passed and possession of the land has been taken. Once that be the case, the land vests in respondent no.1 free from all encumbrances. Any persons on the land at the time when the Notification was issued were entitled to file their claims or objections, at least after the declaration under Section 6 of the Act. Respondent no.4 apparently has not filed objection. It is now contended by respondent no.4 that she had no notice. Even if that by so, the remedy, once the land vests in the petitioners, would only be for compensation. That claim for compensation cannot come out of public revenue. It must only come from compensation paid in favour of the petitioners herein.

2. Respondent no.4 through Shri Raghuvir B. Savordenkar has filed an affidavit. In paragraph 2 of the said affidavit it is set out as under:-

> "2. I say that respondent no.4 have (has) made the representation to the State Government and it has been decided to give her time to vacate the same until the ensuing monsoon season is over on the ground that she gives undertaking to vacate the said place immediately after the monsoon season is over and in any event latest by 20th November,2003."

3. The petitioners have come to this Court on the ground that respondent no.1 has taken no steps to evict respondent no.4. On behalf of respondent no.4 it is pointed out that respondent no.1 had taken up proceedings for eviction

under the Land Revenue Code. Those proceedings were ultimately challenged by respondent no.4 before the Administrative Tribunal. That appeal has now been disposed of. All that respondent no.1 is doing now to grant time to respondent no.4 to remove the structure at the latest by 20th November, 2003.

4. Considering the above, the following Order:-

If respondent no.4 files in this Court an affidavit in the form of an undertaking within two weeks that she and all others in the premises will remove the structure on or before 20th November, 2003, the respondent no.1 to grant time as set out in the application. On failure to do so, respondent no.1 is directed to take steps to forthwith, after expiry of the period of 15 days to remove her and other persons from the structure and the land and ensure that the land is free from any encumbrances. Rule made absolute accordingly with no order as to costs.

F. I. REBELLO, J.

P. V. HARDAS, J.

mc.